

January 17, 2003

**OFFICE OF THE HEARING EXAMINER  
KING COUNTY, WASHINGTON**

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Seattle, Washington 98164  
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**REPORT AND DECISION**

SUBJECT: Department of Development and Environmental Services File No. **E9500835**

**DAVID MOULDEN**  
Code Enforcement Appeal

Location: 43515 – 278<sup>th</sup> Avenue Southeast

Appellant: David Moulden, *represented by*  
**Christopher J. Dodd**  
Curren Mendoza, Attorneys  
555 West Smith Street  
P.O. Box 140  
Kent, WA 98035-0140  
Telephone: (253) 852-2345  
Facsimile: (253) 852-2030

King County: Department of Development and Environmental Services  
Building Services Division, Code Enforcement Section,  
*represented by* **DenoBi Olegba**  
900 Oakesdale Avenue Southwest  
Renton, Washington 98055-1219  
Telephone: (206) 205-1528  
Facsimile: (206) 296-6604

**SUMMARY OF DECISION/RECOMMENDATION:**

Department's Preliminary Recommendation:

Deny the appeal

Department's Final Recommendation:

Deny the appeal

Examiner's Decision:

Deny the appeal

**EXAMINER PROCEEDINGS:**

Hearing Opened:

November 12, 2002

Hearing Closed:  
2003

January 16,

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

**FINDINGS, CONCLUSIONS & DECISION:** Having reviewed the record in this matter, the Examiner now makes and enters the following:

**FINDINGS OF FACT:**

1. On August 5, 2002, the King County Department of Development and Environmental Services, Code Enforcement Section, issued a notice and order to David Moulden for a 4.75 acre wooded parcel located at 43515 – 278<sup>th</sup> Avenue Southeast. The property was cited within the notice and order for occupancy of substandard dwellings; placement of a mobile home without required permits; onsite storage of approximately 75 inoperable vehicles; storage of heavy equipment in violation of zoning regulations; construction of buildings and structures without permits; illegal storage of environmentally hazardous materials; accumulation of junk and debris; placement of vehicles and debris within a stream setback; and operation of an auto salvage yard without required permits and approvals. Mr. Moulden filed a timely appeal of the notice and order.
2. Mr. Moulden appeared at the hearing scheduled for November 12, 2002 with his attorney Christopher Dodd. The Appellant and county staff submitted to the record a code enforcement compliance timesheet that proposed that the correction of the violations on Mr. Moulden's property be effected by December 27, 2002. On the basis of this agreement, the parties requested and were granted a 60 day continuance of the hearing in order to provide the Appellant with an opportunity to bring the property into code compliance.
3. At the continued hearing scheduled for January 16, 2003, neither Mr. Moulden nor his attorney appeared. Code enforcement officer DenoBi Olegba related that he had visited the Moulden property on three occasions since the November hearing date, the most recent having been December 27, 2002, the agreed upon compliance deadline. He reported that no progress had made towards bringing the property into code compliance. Mr. Olegba stated that, indeed, the property was in worse condition than before due to the fact that Mr. Moulden had also recently altered a regulated wetland.
4. Mr. Olegba provided to the record testimony describing the conditions on the property as cited within the notice and order, including extensive photographs taken on June 13, 2002 and August 23, 2002. These photographs graphically support the citations contained within the notice and order and described within Mr. Olegba's testimony.

**CONCLUSIONS:**

1. The evidence of record supports the citations contained within the August 5, 2002 notice and order. The Appellant has submitted to the record no evidence which contradicts the notice and order citations. The notice and order must be upheld.

2. Mr. Moulden's agreement on November 12, 2002 to a compliance timesheet was a sham interposed for no purpose other than to delay the enforcement process. Fines and penalties therefore shall be applied to the property retroactive to November 12, 2002.

DECISION: The appeal is DENIED.

ORDER:

1. Fines and penalties assessed against the Appellant's property shall be applied retroactively to November 12, 2002.

ORDERED this 17th day of January, 2003

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Stafford L. Smith  
King County Hearing Examiner

TRANSMITTED this 17th day of January, 2003, by certified mail to the following party:

David Moulden  
39309 – 303<sup>rd</sup> Ave. SE  
Enumclaw, WA 98022

TRANSMITTED this 17th day of January, 2003, to the parties and interested persons of record:

Christopher J. Dodd  
Curran Mendoza  
555 West Smith St.  
Kent WA 98035-0140

David Moulden  
39309 - 303rd Ave. SE  
Enumclaw WA 98022

Elizabeth Deraitus  
DDES/BSO  
Code Enforcement Supervisor  
MS OAK-DE-0100

Patricia Malone  
DDES  
Code Enforcement Section  
MS OAK-DE-0100

DenoBi Olegba  
DDES/BSO  
Code Enforcement  
MS OAK-DE-0100

Heather Staines  
DDES/BSO  
Code Enforcement-Finance  
MS OAK-DE-0100

**NOTICE OF RIGHT TO APPEAL**

The action of the hearing examiner on this matter shall be final and conclusive unless a proceeding for review pursuant to the Land Use Petition Act is commenced by filing a land use petition in the Superior Court for King County and serving all necessary parties within twenty-one (21) days of the issuance of this decision. The Land Use Petition Act defines the date on which a land use decision is issued by the Hearing Examiner as three days after a written decision is mailed.

MINUTES OF THE NOVEMBER 12, 2002, and JANUARY 16, 2003, PUBLIC HEARING ON  
DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. E9500835

Stafford L. Smith was the Hearing Examiner in this matter. Participating in the hearing was DenoBi Olegba, representing the Department; Christopher J. Dodd, representing the Appellant; and David Moulden.

The following exhibits were offered and entered into the record:

- Exhibit No. 1 DDES Staff Report dated November 12, 2002
- Exhibit No. 2 Copy of Notice & Order Issued August 5, 2002
- Exhibit No. 3 Notice and Statement of Appeal received August 20, 2002
- Exhibit No. 4 Facsimile from King County Law Library dated 10/09/02 re: definition of salvage yard
  - 4a Email from David Koperski dated 10/08/02 re: David Moulden
  - 4b Letter to Officer Olegba dated 06/11/02
  - 4c Email from Debra Cannon dated 10/09/02
  - 4d Letter to David Moulden from David Koperski dated 04/25/94 re: building permit disapproval
- Exhibit No. 5 Copies of Applicable Code Sections
- Exhibit No. 6a Photos dated 6/13/02 (8)
  - 6b Photos (4)
  - 6c Photos dated 6/13/02 (6)
  - 6d Photos dated 6/13/02 (7)
  - 6e Photos (8)
  - 6f Photos dated 6/13/02 (6)
  - 6g Photos dated 10/16/02 (8)
  - 6h Photos dated 10/16/02 (8)
  - 6i Photos dated 10/16/02 (8)
  - 6j Photos (8)
  - 6k Photos dated 10/16 (7)
  - 6l Photos dated 10/16/02 (6)
  - 6m Aerial photos dated 8/23/02 (8)
  - 6n Aerial photos dated 8/23/02 (5)
- Exhibit No. 7 Color-coded GIS map of subject property area dated 10/10/02
- Exhibit No. 8a King County Drainage Investigation Report dated 10/16/02
  - 8b Photos taken by Margaret Holwegner dated 10/16/02

SLS:gao  
E9500835 RPT